

**Subject: Governmental Publications on Venereal Disease.**

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FEDERAL SECURITY AGENCY  
UNITED STATES PUBLIC HEALTH SERVICE  
WASHINGTON

*To the Editor:*—*Venereal Disease Information* presents a monthly digest of the important papers on diagnosis, treatment, pathology, laboratory research, and public health from the entire world. In addition, it publishes important special papers and reports by leading scientists. It is designed to keep both the specialist and the general practitioner informed of developments in the field of syphilology and urology.

This medical journal of venereal disease has been highly recommended by leaders in all fields of public health. In a rapidly developing and changing field of medicine, the physician interested in venereal disease control from the standpoint of differential diagnosis and treatment will find *Venereal Disease Information* an important aid.

*Venereal Disease Information* is published monthly by the United States Public Health Service. Today it ranks as the Government's "best seller," with the highest paid circulation of any federal publication. It is available at 50 cents per year to all physicians.

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All orders should be directed to the Superintendent of Documents, Government Printing Office, Washington, D. C. Subscription fee, 50 cents per year, in check or money order, *not stamps*.

**Subject: Brochures on Gonorrhea and Syphilis.**

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U. S. PUBLIC HEALTH SERVICE  
WASHINGTON

*To the Editor:*—Since the publication in September, 1939, of the first folder on gonorrhea in the present anti-syphilis disease campaign, it has become evident that, while many people still consider gonorrhea as "no worse than a bad cold," there is growing a wide interest in gonorrhea control.

Testimony to this fact lies in the distribution report on the new Public Health Service folder, "Gonorrhea the Crippler." It was released in September as the fourth folder in the "dollar-a-hundred" series,\* and already more than 400,000 copies have been sold.

It is evident, however, that more complete information than can be encompassed in a folder is needed, and to assist those who are called upon to present to the public facts

about gonorrhea as a medical and as a public health problem, a booklet, "Twenty Questions on Gonorrhea," has been prepared.

"Twenty Questions on Gonorrhea" was developed with the active assistance of officers and members of the Neisserian Medical Society. It is written in layman's language for his use, and for the use of the physician who wants to know how to tell the story of gonorrhea in nontechnical terms. Every doctor should have a copy in his library for reference when he is asked to discuss gonorrhea control before lay audiences. And as a service to his patients every doctor should have a supply on his desk.

This new question-and-answer booklet, illustrated and with schematic anatomical drawings, is available from the Superintendent of Documents, Washington, D. C., for five cents a single copy, and with a 25 per cent reduction on orders of one hundred or more.

Sincerely yours,

R. A. VONDERLEHR,  
Assistant Surgeon-General, Division  
of Venereal Diseases.

## MEDICAL JURISPRUDENCE†

By HARTLEY F. PEART, ESQ.  
San Francisco

### What May a Physician Expect of His Patient?

Nearly all of the articles written not only by the author, but by others, on the subject of medical jurisprudence deal with the responsibilities of a physician to his patient and the various phases of liability which may arise from failure to live up to all of them. For the purpose of throwing a little sunshine into the picture, this article will be devoted to an exposition of some of the duties which a patient owes to his physician.

In *Becker vs. Janinski*, 27 Abb. N. Carolina 45, a full statement of the patient's responsibility was set forth as follows:

All the obligation is not upon the physician, but the patient also has his duties to discharge. In particular, the patient must obey the orders and follow the directions of his physician, and if he disobeys such orders or neglects such directions, he cannot hold the physician for the consequences of such disobedience or neglect. Accordingly, I charge you that if you find that the injury of which the plaintiff complains was the effect of her carelessness or neglect alone or was the effect of the defendant's negligence or want of skill in combination and cooperation with her own carelessness and neglect she cannot recover. Her contributory negligence would defeat the action.

Most of the instances where objection is made to the conduct of the patient arise out of a failure on the patient's part to follow instructions. However, a patient not only has an obligation to follow reasonable instructions, but he is required continually to exercise such ordinary prudence as would be expected of a person in his position, and a failure on his part to exercise such prudence will prevent recovery.

In reference to the duty of a patient to follow instructions, various situations may arise.

**Refusal to Submit to Treatment.** A patient is bound to submit to the treatment prescribed by his physician or surgeon if it is such as a physician of ordinary skill would sanction, and a physician or surgeon who is prevented from

\* No. 1, "Syphilis—Its Cause, Its Spread, Its Cure"; No. 2, "Syphilis and Your Town"; No. 3, "You Can End This Sorrow"; No. 5, "Gonorrhea the Crippler."

† Editor's Note.—This department of CALIFORNIA AND WESTERN MEDICINE, presenting copy submitted by Hartley F. Peart, Esq., will contain excerpts from and syllabi of recent decisions and analyses of legal points and procedures of interest to the profession.

correcting an ailment by the refusal of the patient to submit to the proper treatment cannot be held liable for resulting damages. Where the patient is incompetent to speak for himself, and the members of his family refuse to permit an operation or other proper treatment, the physician is relieved from liability for the course pursued or other injuries resulting from failure to apply the treatment.

**Failure to Return for Treatment.** A patient who, after receiving treatment, fails to return to have the entire course of treatment completed, is guilty of contributory negligence. In other words, his own act has contributed to his injury. However, it should be stated that if the patient's failure to return is a result of his discovery that his condition is not improving because of the physician's negligent treatment, the patient may go to another physician for proper treatment and still hold the first liable for such injuries as had occurred prior to the change.

Generally speaking, negligence of the patient will bar any action based upon the negligence of the physician on the theory that the negligence of the patient supervenes that of the physician. However, it has been held that if both the physician and the patient have been negligent and the injuries due to the respective negligence of each can be separated, the physician is liable for the injuries due to his own want of skill or care. It has further been held that where the liability for negligence on the part of the physician has already been incurred, subsequent negligence of the patient which merely aggravates the injury does not discharge the physician from liability for such damage as would have occurred regardless of the patient's act.

Some cases have held that a physician may not be held liable for injuries resulting from an operation performed at the insistence of the patient despite the physician's advice that it is unnecessary and improper. Thus, it has been held that where the patient did not consult his surgeon as to the propriety of bleeding him, but only required the performance of the manual operation, there was no liability. However, a physician should always be wary of patients who have definite convictions as to what form of treatment they want. When actually faced with injury, such a person may state that the treatment itself was negligently performed or even take the position that he did not really give any directions, but that the act was done upon the suggestion of the physician and acquiesced in by the patient because of his reliance on the physician's superior knowledge. It is suggested that whenever a physician is asked to perform an act which is against the physician's best judgment, the patient should be sent elsewhere. At least a physician should obtain a written statement from the patient to the effect that he is receiving the treatment against the physician's advice.

Finally, there are instances in which a physician secures from a patient a writing in which an attempt is made to have the patient assume all risk. It must be remembered that even though such a writing is obtained and may have the effect of eliminating liability in so far as the choice of the method of treatment is concerned, nevertheless, a liability for negligent performance of the treatment will remain. A physician cannot eliminate by contract liability for his negligence. Thus, it has been held that where a patient was warned that danger attended the use of x-rays and the patient agreed to assume the risk, such assumption would not be deemed to cover the operator's negligence.

Generally, it may be said that the rules of contributory negligence are mere expositions of a rule of fairness. However, occasions may arise in which an act that appears fair and reasonable to the physician may not appear as such to a court or jury. For that reason, a physician should always keep in mind the general directions of the law in reference to the conduct which may be expected of the patient.

## ENDOCRINOLOGY: A CRITICAL ANALYSIS\*

By EDWARD H. RYNNEARSON, M. D.

Rochester, Minnesota

### Suggested Reading

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\* This paper is in two parts: Part I appeared in the June issue of CALIFORNIA AND WESTERN MEDICINE (page 257); Part II appears in current issue (page 12).